

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DANIEL J. RHOADS,)	8:08CV227
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
STATE OF NEBRASKA, et al.,)	
)	
Defendants.)	

This matter is before the court on Plaintiff’s Motion for New Trial and Redress. (Filing No. [92](#).) The court liberally construes this Motion as a Rule 59(e) Motion to Alter or Amend the court’s July 23, 2009 Judgment. (Filing No. [91](#).) As set forth below, the Motion is denied.

Liberally construed, Plaintiff’s Motion is brought pursuant to [Federal Rule of Civil Procedure 59\(e\)](#) and argues that the court erred when it entered its Order and Judgment on July 23, 2009. (Filing Nos. [90](#) and [91](#).) As set forth by the Eighth Circuit, “[Rule 59\(e\)](#) motions serve the limited function of correcting manifest errors of law or fact or to present newly discovered evidence. . . . Such motions cannot be used to introduce new evidence, tender new legal theories, or raise arguments which could have been offered or raised prior to entry of judgment.” [U.S. v. Metro. St. Louis Sewer Dist.](#), 440 F.3d 930, 933 (8th Cir. 2006) (internal citations and quotations omitted).

Here, Plaintiff asserts various arguments regarding the court’s Memorandum Opinion which dismissed Plaintiff’s monetary claims against Sandra Dougherty and J. Patrick Mullen¹ with prejudice on absolute judicial immunity grounds and

¹Plaintiff has named “J. Patrick Mullens” as a Defendant. It appears that this individual is actually J. Patrick Mullen. (Filing Nos. [19](#) and [20](#); *see also*

Plaintiff's remaining claims without prejudice because they implicated the validity of his conviction. (Filing Nos. [90](#) and [91](#).) Although Plaintiff's arguments are difficult to decipher, Plaintiff generally objects to the court's ruling and argues the merits of his claims. (Filing No. [92](#) at CM/ECF pp. 1-5.) Plaintiff also asks the court for an extension of time to allow him to prove that Dougherty and Mullen are not entitled to absolute judicial immunity. (*Id.* at CM/ECF p. 3.) Plaintiff could have advanced these arguments prior to dismissal, but he chose not to do so. As such, Plaintiff is not entitled to relief under [Rule 59\(e\)](#).

IT IS THEREFORE ORDERED that: Plaintiff's Motion to Alter or Amend (filing no. [92](#)) is denied.

December 1, 2009.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

<http://www.supremecourt.ne.gov/district-court/dist-judges-addr.shtml?sub3>.) For clarity, the court will use this individual's correct name.

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